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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/297,589	05/04/1999	JOHN JOSEPH SLIVKA	DN1996221USA	9972

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THE GOODYEAR TIRE & RUBBER COMPANY
INTELLECTUAL PROPERTY DEPARTMENT 823
1144 EAST MARKET STREET
AKRON, OH 44316-0001

EXAMINER

JOHNSTONE, ADRIENNE C

ART UNIT	PAPER NUMBER
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1791

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05/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/297,589	Applicant(s) SLIVKA ET AL.	
	Examiner Adrienne C. Johnstone	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 10 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-9 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>19990504</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-9, drawn to an aircraft tire including a folded belt package.

Group II, claim(s) 10 and 11, drawn to a method of building a folded belt package and a method of building an aircraft tire including a folded belt package.

2. The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the aircraft tire including a folded belt package as set forth in claim 1 does not distinguish over the prior art as evidenced by Jolivet et al. (3,233,649: high speed tire such as an aircraft tire, embodiments of Figures 5 and 6, reference teaches to make tread reinforcement layers 22, 23 decrease in elasticity (increase in modulus) from the tread surface to the belt 12 in order to provide a transition from the low extensibility belt 12 to the higher extensibility tread surface (col. 3 lines 28-61)), Cesar et al. (4,302,265: embodiments of Figures 3, 5, and 7, elastic filament belt layer folded around folded edges of cable belt layer, reference not limited to any particular type of tire so obvious to select any known tire form including aircraft tires absent unexpected results), and British Patent Specification 1 364 426 A (embodiment of Figure 2, rayon cord plies 11 and 12 folded around the folded edges of steel cord plies 17 and 18, reference teaches to use the tire in high speed applications (p. 2 lines 3-26) so obvious to select any known high speed tire form including aircraft tires absent unexpected results) for example and therefore the subject matter of claim 1 cannot serve as a common special technical feature.

3. During a telephone conversation with June Rickey on April 23, 2008 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10 and 11 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

5. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings filed May 4, 1999 are clearly informal (copy marks marring drawings sheet and obscuring part of Figure 1). Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

6. The substitute specification with substitute claims and abstract filed May 4, 1999 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because: the required marked-up copy of the substitute specification has not been filed.

7. A substitute specification including the claims is required pursuant to 37 CFR 1.125(a) because copy marks mar the pages and obscure the text throughout the specification and claims.

A substitute specification must not contain new matter. The substitute specification must be submitted with markings showing all the changes relative to the immediate prior version of the specification of record. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or

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fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. An accompanying clean version (without markings) and a statement that the substitute specification contains no new matter must also be supplied. Numbering the paragraphs of the specification of record is not considered a change that must be shown.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Jolivet et al. (3,233,649).

See the embodiments of Figures 5 and 6, col. 2 line 4 - col. 5 line 32: tread reinforcement layers 22, 23 decrease in elasticity (increase in modulus) from the tread surface to the belt 12 in order to provide a transition from the low extensibility belt 12 to the higher extensibility tread surface (col. 3 lines 28-61).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was

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commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 2-4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jolivet et al. (3,233,649).

See paragraph 9 above: it would have been an obvious alternative to one of ordinary skill in the art to provide the increase in modulus from the tread to the belt by using higher modulus cord material in the tread reinforcement layer closest to the belt. As to claim 8, the tread reinforcement cords can be artificial filament cords such as nylon cords (col. 5 lines 12-17).

13. Claims 1-4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cesar et al. (4,302,265).

See the embodiments of Figures 3-5, and 7, col. 1 line 5 - col. 4 line 59: elastic filament belt layer folded around folded edges of cable belt layer, and since the reference is not limited to any particular type of tire it would have been obvious to one of ordinary skill in the art to select any known tire form including aircraft tires absent unexpected results. As to claim 8, the polyamides are necessarily either aromatic or aliphatic (nylon), therefore one of ordinary skill in the art would have at once envisaged both species from the genus of polyamides.

14. Claims 1-3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over British Patent Specification 1 364 426 A.

See the embodiment of Figure 2, p. 1 line 10 - p. 3 line 8: 17° rayon cord plies 11 and 12 folded around the folded edges of 17° steel cord plies 17 and 18, and since the reference teaches to

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use the tire in high speed applications (p. 2 lines 3-26) it would have been obvious to one of ordinary skill in the art to select any known high speed tire form including aircraft tires absent unexpected results. As to claim 9, the cord directions may be the same (p. 2 lines 52-58).

15. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jolivet et al. (3,233,649) as applied to claims 2-4 and 8 above, and further in view of Hill et al. (3,322,728).

Hill teaches to use aromatic polyamide cords in tires in order to obtain high strength and heat stability (col. 1 line 10 - col. 2 line 42 and col. 4 lines 10-30); it would therefore have been obvious to one of ordinary skill in the art to use aromatic polyamide cords as the higher modulus artificial filament tread reinforcement cords in the above aircraft tire.

16. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cesar et al. (4,302,265) as applied to claims 1-4 and 8 above, and further in view of Hill et al. (3,322,728).

Hill teaches to use aromatic polyamide cords in tires in order to obtain high strength and heat stability (col. 1 line 10 - col. 2 line 42 and col. 4 lines 10-30); it would therefore have been obvious to one of ordinary skill in the art to use aromatic polyamide cords as the artificial textile cables in the above aircraft tire.

17. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over British Patent Specification 1 364 426 A as applied to claims 1-3 and 9 above, and further in view of Hill et al. (3,322,728).

Hill teaches to use aromatic polyamide cords in tires in order to obtain high strength and heat stability (col. 1 line 10 - col. 2 line 42 and col. 4 lines 10-30); it would therefore have been obvious to one of ordinary skill in the art to use aromatic polyamide cords as the higher modulus stiffening strip cords in the above aircraft tire.

Allowable Subject Matter

18. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record fails to disclose or suggest applicants' aircraft tire including the low modulus cord belt strip having a width of about 5/8 to 7/8 of the width of the high modulus cord belt ply in the claimed environment.

Note that method claims 10 and 11 have not been rejoined at this time because they do not incorporate or otherwise include all of the limitations of an allowable article claim.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. An English machine translation of DE 19 43 842 A cited by applicants is attached.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adrienne C. Johnstone whose telephone number is (571) 272-1218. The examiner can normally be reached on Monday-Friday, 1:00PM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Adrienne C. Johnstone
Primary Examiner
Art Unit 1791

Adrienne Johnstone

/Adrienne C. Johnstone/

April 28, 2008